

UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

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In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et al.*,

Debtors.¹

PROMESA

Title III

No. 17 BK 3283-LTS

Re: ECF No. 647, 649

(Jointly Administered)

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In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO

Debtor.

PROMESA

Title III

No. 17 BK 3283-LTS

This Response relates only to the Commonwealth and shall only be filed in the lead Case No. 17 BK 3283-LTS.

RESPONSE OF THE COMMONWEALTH TO MOTION FOR RELIEF FROM AUTOMATIC STAY FILED BY KEILA ROBLES FIGUEROA [ECF NO. 647]

To the Honorable United States District Court Judge Laura Taylor Swain:

The Commonwealth of Puerto Rico (the “Commonwealth”) respectfully submits this response (the “Response”) to the *Motion for Relief from Automatic Stay* [ECF No. 647] (the “Motion”) filed by Keila Robles Figueroa (“Movant”).²

¹ The Debtors in these Title III Cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); and (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686). (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

RESPONSE

1. By the Motion, Movant seeks to continue the appeal pending before the Puerto Rico Court of Appeals (the “Appellate Court”), captioned Keila Robles-Figueroa v. Departamento del Trabajo y Recursos Humanos, Case No. KLRA201700438 (the “Appellate Court Action”). The Appellate Court Action is an appeal filed by the Commonwealth from an administrative judgment entered by the Appellative Commission for the Public Service (“CASP”)³ finding that the Department of Labor and Human Resources (“DOL”) unlawfully denied Movant’s claim for reinstatement to her position as the supervisor of the DOL’s Fair Labor Standard Bureau after Movant requested an unpaid leave of absence. The only issue before the Appellate Court is whether the Movant is entitled to reinstatement of her job at the DOL. Any determination on whether Movant is entitled to back-pay and reinstatement of other marginal benefits, such as sick and vacation leave shall be made by the DOL upon a finding by the Appellate Court that Movant is entitled to reinstatement of her job. Accordingly, the Commonwealth does not object to a partial modification of the automatic stay set forth in Bankruptcy Code section 362 (the “Title III Stay”), made applicable by PROMESA section 301(a), to permit the Appellate Court Action to proceed in order for the Appellate Court to make a determination on whether Movant is entitled to reinstatement of her job at the DOL.

2. The Commonwealth believes that the limited modification of the Title III Stay proposed herein is appropriate given that the only determination before the Appellate Court is whether Movant should be reinstated to her former position at the DOL. Such relief will balance

² The Financial Oversight and Management Board for Puerto Rico, as the Debtors’ representative pursuant to section 315(b) of the *Puerto Rico Oversight, Management, and Economic Stability Act* (“PROMESA”), has authorized the Department of Justice to file this Objection on behalf of the Commonwealth.

³ The CASP case is captioned Keila Robles-Figueroa v. Departamento del Trabajo y Recursos Humanos, Case No. 2015-08-0159.

the harms between Movant and the Commonwealth by allowing the Appellate Court Action to proceed on the limited issue before it without requiring the Commonwealth to expend significant time and resources defending the litigation, which would divert the Commonwealth's attention away from its restructuring efforts.

3. Nothing contained in this Response should be construed as a waiver or modification of the Title III Stay to permit the prosecution against the Commonwealth of any claim by anyone other than Movant as provided for herein, and the Commonwealth reserves all rights, defenses, and protections with respect to any other motions for relief of stay or any other matters pending in the Commonwealth's Title III case. The Commonwealth further reserves its rights with respect to any claim currently pending in the Appellate Court Action or hereinafter asserted by Movant, including any claims for back-pay and other benefits. As a potential repetition, unsecured creditor of the Commonwealth, Movant's claims for back-pay and other benefits are subject to the claim resolution process that will be undertaken in the Title III case.

CONCLUSION

4. For the foregoing reasons, the Commonwealth requests that the Court grant a partial modification of the Title III Stay to allow the Appellate Court Action to proceed in order for the Appellate Court to make a determination on whether Movant is entitled to reinstatement of her job at the DOL; provided that the Title III Stay shall continue to apply with respect to Movant's claims for damages, including any claims for back-pay and other benefits.

Dated: July 28, 2017
San Juan, Puerto Rico

Respectfully submitted,

WANDA VÁZQUEZ GARCED
Secretary of Justice

/s/ Wandymar Burgos Vargas
WANDYMAR BURGOS VARGAS
USDC 223502
Deputy Secretary in Litigation
Department of Justice
P.O. Box 9020192
San Juan, Puerto Rico 00902-0192
Phone: 787-721-2940 Ext. 2500, 2501
wburgos@justicia.pr.gov

Attorneys for the Commonwealth of Puerto Rico